

U. S. District Court
Southern District of West Virginia

U. S. Probation Office
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AUG 16 2012

John T. Copenhaver, Jr.
United States District Judge

Memorandum

To: The Honorable John T. Copenhaver, Jr.
United States District Judge

From: J. Alexander Alvarez
Senior U. S. Probation Officer

Date: August 15, 2012

Subject: U.S. v. Diane E. Shafer, M.D.
Docket No. 2:12CR00085-1

The probation officer respectfully requests a short continuance of the sentencing date in the above matter to receive and respond to objections. The probation officer's investigation into the defendant's background ran longer than anticipated. For example, a request for criminal history records to the State of Kentucky on June 12, 2012, returned a response on July 3, 2012, that no criminal cases against Shafer could be located. Notwithstanding that response, the probation officer knew Shafer had faced charges in Kentucky. Shafer's conviction was ultimately overturned on appeal; however, collecting records concerning the offense and condensing them for the report proved time consuming, particularly where much of the information intertwined with civil administrative licensure proceedings in addition to criminal court involvement. As a consequence, the draft was not disclosed to counsel until August 6, 2012. Since that time, defense counsel has requested additional time beyond a two week period to review and respond to the information contained in the report. Given the volume of some of the information in the case, the probation officer respectfully seeks additional time to resolve objections.

The probation officer notes that a short continuance would not prejudice the defendant. According to her counsel, objections can likely be provided during the week of August 27th. The probation officer believes a final version of report can be submitted within one week of receiving the objections. Mr. Tinsley has indicated he will be on vacation the week of September 10 through September 14, 2012.

Copies to: John J. Frail, Assistant United States Attorney
Dwane L. Tinsley, Defense Counsel
Diane E. Shafer, Defendant
Peggy Adams, Supervisory U.S. Probation Officer